

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NYLES BAUER,

Plaintiff,

v.

THURSTON COUNTY, et al.,

Defendants.

CASE NO. C12-5592 BHS

ORDER DISMISSING
COMPLAINT WITHOUT
PREJUDICE AND DENYING
PLAINTIFF'S MOTION TO
PROCEED IN FORMA
PAUPERIS

This matter comes before the Court on Plaintiff Nyles Bauer's ("Bauer") motion to proceed in forma pauperis (Dkt. 1) and complaint (Dkt. 1-1).

On July 5, 2012, Bauer filed a complaint against Defendants Thurston County and Thurston County Superior Court. Dkt. 1-1. Although it is not entirely clear, Bauer appears to allege claims associated with a bench trial that took place in the Thurston County Superior Court, Juvenile Division. *See id.*

A federal court may dismiss *sua sponte* pursuant to Fed. R. Civ. P. 12(b)(6) when it is clear that the Plaintiff has not stated a claim upon which relief may be granted. *See Omar v. Sea Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) ("A trial court may dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6) Such a dismissal may be

1 made without notice where the claimant cannot possibly win relief.”). *See also Mallard*
2 *v. United States Dist. Court*, 490 U.S. 296, 307–308 (1989) (there is little doubt a federal
3 court would have the power to dismiss frivolous complaint *sua sponte*, even in absence of
4 an express statutory provision). A complaint is frivolous when it has no arguable basis in
5 law or fact. *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

6 In this case, Bauer’s complaint appears frivolous as the named defendants have
7 judicial immunity from the claims he appears to allege, as they are associated with the
8 defendants’ roles as officers of the court. *See Ashelman v. Pope*, 793 F.2d 1072, 1075
9 (9th Cir. 1986) (“Judges and those performing judge-like functions are absolutely
10 immune from damage liability for acts performed in their official capacities.”). Bauer
11 otherwise fails to state a claim upon which relief can be granted.

12 Therefore, the Court **DISMISSES** Bauer’s complaint **without prejudice**.

13 Dated this 2nd day of August, 2012

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16 BENJAMIN H. SETTLE
17 United States District Judge
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